

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

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| IN RE: AUTOMOTIVE PARTS ANTITRUST<br>LITIGATION | No. 12-md-02311<br>Hon. Marianne O. Battani |
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| IN RE: WIRE HARNESS SYSTEMS                                | Case No. 2:12-cv-00103                  |
| IN RE: INSTRUMENT PANEL CLUSTERS                           | Case No. 2:12-cv-00203                  |
| IN RE: HEATER CONTROL PANELS                               | Case No. 2:12-cv-00403                  |
| IN RE: AUTOMOTIVE BEARINGS                                 | Case No. 2:12-cv-00503                  |
| IN RE: ANTI-VIBRATIONAL RUBBER PARTS                       | Case No. 2:13-cv-00803                  |
| IN RE: WINDSHIELD WIPER SYSTEMS                            | Case No. 2:13-cv-00903                  |
| IN RE: RADIATORS   | Case No. 2:13-cv-01003                  |
| IN RE: STARTERS  | Case No. 2:13-cv-01103                  |
| IN RE: AUTOMOTIVE LAMPS                                    | Case No. 2:13-cv-01203                  |
| IN RE: IGNITION COILS                                      | Case No. 2:13-cv-01403                  |
| IN RE: HID BALLASTS  | Case No. 2:13-cv-01703                  |
| IN RE: ELECTRIC POWERED STEERING<br>ASSEMBLIES             | Case No. 2:13-cv-01903                  |
| IN RE: FAN MOTORS  | Case No. 2:13-cv-02103                  |
| IN RE: FUEL INJECTION SYSTEMS                              | Case No. 2:13-cv-02203                  |
| IN RE: POWER WINDOW MOTORS                                 | Case No. 2:13-cv-02303                  |
| IN RE: AUTOMATIC TRANSMISSION FLUID<br>WARMERS             | Case No. 2:13-cv-02403                  |
| IN RE: AIR CONDITIONING SYSTEMS                            | Case No. 2:13-cv-02703                  |
| IN RE: WINDSHIELD WASHER SYSTEMS                           | Case No. 2:13-cv-02803                  |
| IN RE: AUTOMOTIVE CONSTANT VELOCITY<br>JOINT BOOT PRODUCTS | Case No. 2:14-cv-02903                  |
| IN RE: SPARK PLUGS   | Case No. 2:15-cv-03003                  |
| IN RE: SHOCK ABSORBERS                                     | Case No. 2:15-cv-03303                  |
| IN RE: BODY SEALINGS                                       | Case No. 2:16-cv-03403<br>2:16-cv-10456 |
| IN RE: INTERIOR TRIM PRODUCTS                              | Case No. 2:16-cv-03503                  |
| IN RE: AUTOMOTIVE BRAKE HOSES                              | Case No. 2:16-cv-03603                  |
| IN RE: EXHAUST SYSTEMS                                     | Case No. 2:16-cv-03703                  |
| IN RE: CERAMIC SUBSTRATES                                  | Case No. 2:16-cv-03803<br>2:16-cv-11804 |
| IN RE: AUTOMOTIVE STEEL TUBES                              | Case No. 2:16-cv-04003<br>2:16-cv-12949 |
| IN RE: ACCESS MECHANISMS                                   | Case No. 2:16-cv-04103                  |
| IN RE: SIDE DOOR LATCHES                                   | Case No. 2:16-cv-04303<br>2:17-cv-11637 |

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THIS DOCUMENT RELATES TO:  
End-Payor Actions

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**DECLARATION OF SHANNON R. WHEATMAN, PH.D. ON ADEQUACY  
OF NOTICE AND NOTICE PLAN**

I, Shannon R. Wheatman, being duly sworn, hereby declare as follows:

1. I am president of Kinsella Media, LLC (“Kinsella”), an advertising and notification consulting firm in Washington, D.C. specializing in the design and implementation of notification programs. My business address is 2101 L Street, NW Suite 800, Washington, D.C. 20037. My telephone number is (202) 686-4111.

2. In the above-referenced matter, *In re: Automotive Parts Antitrust Litigation*, I was asked to design a notice and notice plan to inform Settlement Class Members about the Round 3 Settlements.

3. Katherine Kinsella, founder and former president of Kinsella, previously submitted a declaration executed September 3, 2015, outlining my and the firm’s credentials. I previously submitted a declaration describing the September 2016 Notice Program, for the Round 2 Settlements, which was also designed by Kinsella (“September 2016 Notice Program Declaration”), and an amended declaration on October 26, 2016 describing a change in one publication. The Court subsequently approved the September 2016 Notice Program on October 7, 2016, and the amendment on October 31, 2016.

4. This declaration will describe the March 2018 notices (the “March 2018 Notice”) and notice plan (the “March 2018 Notice Plan”) (collectively referred to as the “March 2018 Notice Program”) proposed here for *In re: Automotive Parts Antitrust Litigation*, including how they were developed and why I believe they will be effective.

5. This declaration is based upon my personal knowledge and upon information

provided by Settlement Class Counsel and my associates and staff. The information is of a type reasonably relied upon in the fields of advertising, media, and communications.

### **MARCH 2018 NOTICE PROGRAM OVERVIEW**

6. Kinsella proposes implementing a March 2018 Notice Program to provide notice to Settlement Class Members. This program will utilize paid and earned media and provides similar reach and frequency as the previous Court-approved notice programs that were implemented.

7. Although some of the individual components differ from the previous notice programs, Settlement Class Members will be exposed to the updated information about the litigation through the same media channels. The March 2018 Notice Program was designed to be substantially similar to the Initial, Combined, and September 2016 Notice Programs.<sup>1</sup> The Combined Notice Program needed to utilize weekly publications to allow the Settlement Classes enough time to respond before the established deadlines. The March 2018 Notice Program can still use monthly publications because the timeframe allows sufficient time for Class Members to respond and act on their rights.

8. The March 2018 Notice Program is described in detail in the plan for the program, attached as **Exhibit A** to this Declaration.

9. I have been involved in drafting the various forms of Notice described below. Each form is noticeable, clear, concise, and written in plain, easily understood language.

10. As detailed below, in my opinion, the March 2018 Notice Program represents the best notice practicable under the circumstances and satisfies due process requirements.

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<sup>1</sup> The proposed March 2018 Notice Program includes Internet advertising and publications that maintain a reach of at least 80% (as was achieved in the prior notice programs).

11. The dates in the March 2018 Notice Program are based on the assumption that the Court approves the Motion to Disseminate Notice by March 8, 2018. If there is a delay in that approval, then that delay may require pushing back the dates.

**Individual Notice**

12. The Settlement Administrator, Garden City Group, LLC (“GCG”), will send an email or mailed notice to those individuals who previously registered on the website, [www.AutoPartsClass.com](http://www.AutoPartsClass.com), or who filed a claim. Potential Settlement Class Members who provided a valid email address will receive an email alert that notifies them about the Round 3 Settlements and directs them to visit the website to read information about the Settlements or file a claim. GCG will mail a postcard to Potential Settlement Class Members who provided only a mailing address.

**Paid Media**

13. Similar to the process described in the Initial Notice Program Declaration, Kinsella used syndicated data available from GfK MediaMark Research, Inc.’s (“GfK MRI”) *2017 Doublebase Study*<sup>2</sup> to select a target audience with demographics that encompass the characteristics of Settlement Class Members and design the paid media segment of the March 2018 Notice Program.

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<sup>2</sup> GfK MRI is a nationally-accredited media and marketing research firm that provides syndicated data on audience size, composition, and other relevant factors pertaining to major media, including broadcast, magazines, newspapers, and outdoor advertising. It provides a single-source measurement of major media, products, services, and in-depth consumer demographic and lifestyle/psychographic characteristics. GfK MRI produces the annual *Doublebase Study*, a study of over 50,000 adults consisting of two full years of data. The sample consists of 25,000 respondents. Fieldwork is done in two waves per year, each lasting six months and consisting of 13,000 interviews. At the end of the interview, the fieldworker presents a self-administered questionnaire that measures approximately 600 product/service categories, 6,500 brands, and various lifestyle activities.

14. When considering which media to use for this case, Kinsella evaluated the latest media survey to determine the media consumption habits of the following target audience: Adults 18 years of age and older who currently own or lease a new vehicle (“New Vehicle Owners/Lessees”). Kinsella also reviewed historical media survey data for New Vehicle Owners/Lessees over the entire class period and found that the demographics of this target audience have not changed significantly during this time.

15. Using New Vehicle Owners/Lessees for media selection and measurement purposes is appropriate for this case because it is the closest measureable target to the Settlement Classes (individuals who bought or leased a new vehicle or paid to replace a qualifying part in their vehicle from 1995 to 2018).

16. The Settlement Classes are made up of individual purchasers/lessees as well as fleet purchasers of new vehicles. In general, qualifying vehicles include four-wheeled passenger automobiles, cars, light trucks, pickup trucks, crossovers, vans, mini-vans, and sport utility vehicles. As discussed previously, New Vehicle Owners/Lessees are measured in GfK MRI; however, fleet owners and replacement part purchasers are not measured in the survey data. In my opinion, the target audience of New Vehicle Owners/Lessees is still appropriate for all Settlement Class Members because it is highly likely that fleet owners and replacement part purchasers (or their households) personally purchased or leased a new vehicle during the relevant class periods. However, supplemental paid media included in the plan will again specifically target fleet owners.

17. In terms of their media habits, New Vehicle Owners/Lessees continue to be above-average to heavy consumers of magazines, newspapers, and the Internet, and average consumers of radio and television.

18. To effectively reach the Settlement Classes, the broad-based March 2018 Notice Program utilizes the media that is commonly consumed by New Vehicle Owners/Lessees —

magazines, newspaper supplements, a national newspaper, and Internet — to meet due process standards and provide the best notice practicable under the circumstances.

19. The Publication Notice will appear in the following consumer magazines:

- a. A half-page ad in *ESPN The Magazine* - estimated circulation of 2,100,000.
- b. Two half-page ads in *People* - estimated circulation of 3,400,000.
- c. A full-page ad in *Reader's Digest* - estimated circulation of 3,000,000.
- d. A half-page ad in *Motor Trend* - estimated circulation of 1,000,000.

20. The Publication Notice will appear in the following newspaper supplements:

- a. A digest-page ad in *Relish* - estimated circulation of 8,800,000.
- b. A 2/5-page ad in *Parade* - estimated circulation of 20,000,000.

21. To specifically reach fleet owners, the Publication Notice will also appear in the following newspaper and trade publications, respectively:

- a. A sixth-page ad in *The Wall Street Journal* – estimated circulation of 1,180,498.
- b. A full-page ad in *Automotive Fleet* – estimated circulation of 21,071.
- c. A half-page ad in *Automotive News* – estimated circulation of 56,684.

22. The March 2018 Notice Program includes Internet advertising to provide Settlement Class Members with additional notice opportunities beyond the print placements.

Internet advertising delivers an immediate message and allows the viewer of an advertisement to instantly click through to the website for further information.

23. Banner advertisements will appear on the following online networks:

a. *Collective* – one of comScore’s top 20 ad networks that focuses on audience targeting using its proprietary data management technology.

b. *Conversant* – an online advertising company and comScore top 20 ad Network.

c. *Facebook* – a free, global social networking website that helps people communicate with friends, family, and coworkers.

d. *LinkedIn* – an interconnected network of experienced professionals from around the world, representing more than 175 industries and 200 countries.

e. *Oath* – a Verizon subsidiary that contains AOL, Yahoo!, and other media brands (such as HuffPost, TechCrunch, Engadget and many others). *Oath* delivers advanced technology solutions across mobile, video, search, native, and programmatic advertising.

f. *Xaxis* – a global digital media platform that connects advertisers and audiences across all media channels.

24. To specifically reach fleet owners, banner advertisements will appear for one month on the National Association of Fleet Administrators (“NAFA”) website ([www.nafa.org](http://www.nafa.org)) and the website for the trade magazine *Auto Rental News* ([www.autorentalnews.com](http://www.autorentalnews.com)).

25. Targeted Internet advertising also will be used to reach potential Class Members on the Internet across different ad networks and publisher websites and through Facebook and

LinkedIn. Banner ads will be targeted to reach specific car owners; individuals interested in automotive topics, car parts, or repair; individuals who purchased automotive products and aftermarket accessories; and individuals who clicked on banner ads for the prior notice programs or previously visited the litigation website.

26. A third-party ad management platform will be used to audit the digital components. This platform will combat ad fraud, viewability issues, and brand safety. By tackling ad fraud, Kinsella will have the opportunity to ensure that ads are not served in environments with fake news, sex, drugs, and violence while reducing the investment wasted on fraudulent traffic (ads being seen by 'bots' or non-humans, ads not viewable, etc.).

**Effectiveness of March 2018 Notice Program**

27. The *reach*<sup>3</sup> and *frequency*<sup>4</sup> of the March 2018 Notice Program was measured against the target audience to evaluate the strength and efficiency of the paid media (magazine, newspaper supplement, newspaper, and Internet advertising). The March 2018 Notice Program will reach an estimated 80.5% of New Vehicle Owners/Lesseees with an average frequency of 2.9 times.<sup>5</sup> In my opinion, the March 2018 Notice Program adequately reaches New Vehicle Owners/Lesseees, replacement part purchasers, and fleet owners, and it will be as effective as previous notice programs.

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<sup>3</sup> *Reach* is the estimated percentage of a target audience that is exposed one or more times through a specific media outlet or combination of media outlets within a given period.

<sup>4</sup> *Frequency* is the estimated average number of opportunities an audience member has to see the notice.

<sup>5</sup> The trade publications (*Automotive News* and *Automotive Fleet*), Internet advertising on the NAFA and *Auto Rental News* websites, and targeted Internet advertising are not measured for this target audience, and their contribution to the overall reach of the media is not calculated.



**Earned Media**

28. An earned media program also will be implemented to amplify the paid media and provide additional notice to Settlement Class Members. The earned media program includes:

a. A multimedia news release (“MNR”) will be distributed on PR Newswire’s US1 National Circuit, reaching approximately 5,000 media outlets and 5,400 websites. The MNR will blend text, audio, video, photos, related documents, and social media to make the story more appealing.

b. Statewide press releases will be distributed on PR Newswire in the 30 affected states and the District of Columbia.

c. Media outreach to targeted media outlets to solicit their interest in the story and generate free media coverage.

d. Kinsella will implement sponsored keywords and phrases with all major search engines, including: Google AdWords, Bing (Microsoft Advertising), and their search partners. When a user searches for one of the specified search terms or phrases, sponsored links will appear on the results page.

**Other**

29. The Settlement Administrator will update the website, [www.AutoPartsClass.com](http://www.AutoPartsClass.com), to enable Settlement Class Members to get current information on the Settlements, including the March 2018 Long-Form Notice and the Round 3 Settlement Agreements.

30. The Settlement Administrator will update the recording associated with the toll-free phone number that allows Settlement Class Members to call and request that a Long-Form Notice be mailed to them or listen to answers to frequently asked questions.

31. The Settlement Administrator will maintain the post office box that allows Settlement Class Members to contact Co-Lead Class Counsel by mail with any specific requests or questions.

### **NOTICE FORM AND CONTENT**

32. Attached to this Declaration are **Exhibit B**, the proposed Long-Form Notice, and **Exhibit C**, the proposed Short-Form Notice (or Publication Notice).

33. The Notices effectively communicate information about the Settlements.

34. Rule 23(c)(2) of the Federal Rules of Civil Procedure requires class action notices to be written in “plain, easily understood language.” Kinsella applies the plain language requirement in drafting notices in federal and state class actions. The firm maintains a strong commitment to adhering to the plain language requirement, while drawing on its experience and expertise to draft notices that effectively convey the necessary information to Settlement Class Members.

35. The Short-Form Notice (or Publication Notice) is designed to capture Settlement Class Members’ attention with clear, concise, plain language. It directs readers to the website or toll-free number for more information. The plain language text provides important information regarding the subject of the litigation, additional Settlements, the Settlement Class definitions, and the legal rights available to Settlement Class Members. No important or required information is missing or omitted. In fact, this Notice states all required information without omitting significant facts that Settlement Class Members need to understand their rights.

36. The Long-Form Notice will be available at the website, by calling the toll-free number, or by mailing or emailing a request to the Settlement Administrator. The Long-Form Notice provides substantial information, including background on the issues in the case and all specific instructions Settlement Class Members need to follow to properly exercise their rights.

It is designed to encourage readership and understanding, in a well-organized and reader-friendly format.

### **CONCLUSION**

37. In my opinion, the March 2018 Notice Program will satisfy due process. It provides a comparable reach (80.5% of New Vehicle Owners/Lessees) and frequency (2.9 opportunities to see the Notice) to what was achieved in the previous notice programs. Although not included in the reach percentage, the trade publication advertising; Internet advertising on the NAFA and trade publication websites; targeted Internet advertising; earned media and outreach efforts; and the website will provide other opportunities for potential Settlement Class Members to learn about and obtain information on the additional Settlements.

38. It is my opinion that the reach of the target audience, number of exposure opportunities to the notice information, and content of the Notices are adequate and reasonable under the circumstances. It is consistent with the standards employed by Kinsella in notification programs designed to reach class members. The March 2018 Notice Program, as designed, is fully compliant with Rule 23 of the Federal Rules of Civil Procedure.

I declare under penalty of perjury that the foregoing is true and correct. Executed in Washington, D.C. this 23rd day of February 2018.



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Shannon R. Wheatman, Ph.D.